

EXHIBIT 81

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

STATE OF NEW YORK, et al.

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official capacity as
SECRETARY OF THE U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES, et al.,

Defendants.

Case No. 1:25-cv-196

SUPPLEMENTAL DECLARATION OF KRISTIN J. CUMMINGS, MD, MPH, ATSF

I, Kristin J. Cummings, MD, MPH, ATSF, declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct:

1. Since December 2022, I have served at the California Department of Public Health (CDPH) as Public Health Medical Administrator and Branch Chief of the Occupational Health Branch (OHB). I have personal knowledge of the facts set forth in this declaration, and if required to testify, would and could competently do so.

2. In May 2025, I submitted a Declaration in support of the States' Motion for Preliminary Injunction. The Declaration, ECF No. 44-52, summarizes my professional and educational background, describes the mission and work of CDPH and OHB, and explains the many ways that CDPH has depended on the National Institute for Occupational Safety and Health (NIOSH) to help CDPH fulfill its mandates.

3. I submit this supplemental Declaration in support of the States' Opposition to the defendants' Motion to Modify the Preliminary Injunction.

Ongoing Adverse Impacts to CDPH

4. CDPH continues to experience negative impacts as a result of the massive reduction in force (RIF) and dismantling of NIOSH. In particular, OHB has not been able to benefit from the valuable expertise and support of many NIOSH employees because more than 70% of NIOSH employees are still on administrative leave. Unless those employees are reinstated, the RIF will perpetuate significant negative impacts across CDPH.

5. Because many NIOSH staff remain on administrative leave, CDPH is not receiving essential expertise from those employees. The NIOSH staff who remain on administrative leave include health surveillance experts in Cincinnati, Ohio in the Health Informatics Branch who coordinate multi-state tracking of workplace injuries and illnesses. In addition, we previously received expert input for our evaluations of traumatic fatalities among workers in California from the Fatality Assessment and Control Evaluation (FACE) Program in the Division of Safety Research in Morgantown, West Virginia; it is my understanding that program is no longer staffed. As a result, we have no partners at NIOSH who collect national data on lead poisoning, pesticide poisoning, or traumatic fatalities. Therefore, although we now have funding to conduct health surveillance and investigations, we lack expert scientific input from NIOSH that is critical to the success of our programs.

6. The Health Informatics Branch was also responsible for the NIOSH Industry and Occupation Computerized Coding System that CDPH relies on to identify and support worker populations at risk of injury or illness. The Branch's system helps our office update our occupational disease registries, including our analysis of death registries, workers' compensation claims, and pesticide illnesses. Through the system, OHB can determine at-risk occupational groups and then design education and outreach for employers and workers to promote

prevention. The absence of the Branch's employees means that employees are unavailable to share their valuable input when we have questions. Given that this is a software system, there is also a concern that there are no employees maintaining the system and ensuring its effective functioning over time.

7. Moreover, due to the RIF, NIOSH staff for the Western States Division in Spokane, Washington remain on administrative leave. Normally, those staff would support California and other western states by focusing on research and outreach related to industries and occupations that are predominant in the West, including wildland firefighting and cannabis production and distribution. Additionally, every September, the Western States Division convenes a meeting of occupational public health professionals to share important projects and findings. This year, NIOSH is not organizing that meeting, depriving CDPH of the latest developments in occupational health issues relevant to western states, including heat illness, wildfire smoke, avian influenza, and other urgent issues.

8. NIOSH staff in the Division of Field Studies and Engineering in Cincinnati, Ohio who evaluate ventilation and other engineering controls are also on administrative leave. Without their active employment, CDPH does not have access to their expertise. For example, CDPH relies on those NIOSH staff to help us understand how to control exposures to toxic chemicals in industrial settings.

9. Many important NIOSH-led projects have been halted because the staff from the Health Effects Laboratory Division in Morgantown, West Virginia are on administrative leave. Laboratories have been decommissioned, and the animals that were required for the projects have been re-housed or euthanized. This Division conducted cutting-edge research that CDPH relied on to inform our preventive activities. For instance, the Division was performing a

toxicological assessment of emissions from fabricating engineered stone countertops; a study of an organosilane coating to block silica-induced lung toxicity; and another study characterizing regulation of gene expression in pulmonary fibrosis from mixed silica dusts. These studies are directly relevant to the ongoing epidemic of silicosis related to countertop fabrication in California, and the results could have supported efforts to protect workers at risk here. Until the Division's employees are reinstated, those important research projects will not proceed.

10. Although a small percentage of NIOSH staff have been reinstated, they are unable to effectively complete some of their job functions because they depend on colleagues who remain on administrative leave. For example, reinstated staff working for the Health Hazard Evaluation Program are limited in their ability to respond to requests because they relied on the Health Effects Laboratory Division for laboratory analyses and on the Division of Field Studies and Engineering for ventilation and engineering control experts who are on administrative leave. Consequently, we cannot rely on the Health Hazard Evaluation program to provide expert evaluations and technical assistance as we did in the past. This is a serious loss. Prior to the RIF, we relied on and collaborated with the Health Hazard Evaluation Program to understand new and emerging exposure and health issues affecting California workers. NIOSH's ability to collect new data to answer specific questions is critical to protecting workers' health. CDPH cannot answer these questions adequately using existing information.

11. It is my understanding and belief that due to the RIF and dismantling of NIOSH, the notification process for NIOSH's grant awards has been very delayed. Because nearly all the staff in the NIOSH Office of Extramural Coordination and Special Programs are on administrative leave, there are not enough employees to timely manage grant award notifications for all extramural program grantees in the country. In fact, I understand that there are only three

employees currently working in the Office of Extramural Coordination and Special Programs, whereas prior to the RIF, there were at least 20. Since 1987, California has received funding (approximately \$700,000 annually in recent years) from NIOSH for occupational health surveillance through a competitive application process. In addition, since 2021, California has received funding (approximately \$80,000 annually) from NIOSH for a project on silicosis related to artificial stone (quartz) countertop fabrication, also through a competitive application process. These awards support the salaries of staff from a non-profit organization who are assigned to CDPH as contractors and work alongside state employees. The final year of the current agreement for the health surveillance funding was to begin on July 1, 2025, and the final year of the agreement for the silicosis funding was to begin on September 1, 2025. Normally, we receive informal communications about our grant awards months before the start date and the official notice of award days to weeks before the start date; these communications are essential for project planning and contractor staffing. However, since the RIF occurred, communication from NIOSH has been extremely limited, and for months it has been unclear whether we would receive the awards at all. We did not receive any communication from NIOSH until mid-June 2025, at which time we were informed that official notification would be delayed. We received official notification of the health surveillance funding on July 8, 2025; we have not yet received official notification of the silicosis funding. The lack of communication and delayed notifications have been extremely disruptive.

12. Furthermore, we are very concerned about future funding opportunities. Competing for funding involves a lengthy application process and multiple levels of review, among other time-intensive tasks. The new funding application process is overseen by the staff from the NIOSH Office of Extramural Coordination and Special Programs. These NIOSH staff

conduct activities that may include writing the announcement, answering questions from applicants about the process, receiving applications, conducting preliminary reviews of proposals for completeness, establishing a panel of subject matter experts to conduct in-depth review and scoring of proposals, confirming institutional review board approval for human subjects research, and communicating funding decisions and next steps to applicants. Under normal circumstances, a call for proposals for new NIOSH funding would be posted by these NIOSH staff more than a year in advance of the funding start date; that has not happened. This is evident from Grants.gov, which is an E-Government initiative operating under the governance of the Office of Management and Budget and managed by the Department of Health and Human Services. For example, currently this site (<https://www.grants.gov/search-results-detail/357417>) lists a “Grant Opportunity Forecast” for “State Occupational Safety and Health Surveillance Program (U60),” the program through which California has received health surveillance funding since 1987. The forecast states that the estimated post date is May 30, 2025, the estimated application due date is September 30, 2025, the estimated award date is June 1, 2026, and the estimated project start date is July 1, 2026. There is an “Apply” button at the top of the page, but it is grayed out. The grant opportunity has not yet been posted nearly two months after the expected date, and it is not currently possible to apply to this opportunity. Thus, it is unclear when this grant opportunity will be posted or if there will be sufficient time to complete the application process in time for a July 1, 2026 start date. Without a full team of NIOSH Office of Extramural Coordination and Special Programs staff available to manage the new funding applications process, we are concerned that the new funding process will be substantially delayed or halted altogether, which would negatively impact OHB’s ability to promote safe and healthy workplaces through health surveillance and prevention activities.

13. The bottom line is that although some staff have been reinstated, the RIF continues to negatively impact programs and stakeholders across California. Prior to the RIF, NIOSH's Divisions did not function independently, each a separate unit unto itself. Instead, they worked collaboratively, relying on unique expertise across the Institute to conduct research and provide service to the states. Without the full complement of experts and support staff, NIOSH is unable to adequately carry out its functions.

14. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED on July 24, 2025 in Richmond, California.

A handwritten signature in blue ink, appearing to read 'KJ Cummings', is written above a horizontal line.

Kristin J. Cummings, MD, MPH, ATSF
Branch Chief, Occupational Health Branch
California Department of Public Health